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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,950	06/29/2001	Robert D. Vanderminden SR.		8109

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Francis C. Hand Esq.  
c/o Carella, Byrne, Bain, Gilfillan, Cecchi,  
Stewart & Olstein  
6 Becker Farm Road  
Roseland, NJ 07068

EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/895,950

Applicant(s)

VANDERMINDEN, ROBERT D.

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3637

1. The Declaration filed on 3/4/03 under 37 CFR 1.131 is sufficient to overcome the Tung (6364562) reference.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plate" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlhuter (DT 2529240) in view of Lin (4877045).

Wohlhuter (figures 1-5) shows a tilt mechanism having a first tubular member (2) for securement to a first section of an umbrella pole, a second tubular member (3), a catch (6) mounted in one of said members and projecting into the other of said members, said catch having a plurality of recesses (7-9) at an end projecting into the other tubular member (2), a pin (13) mounted in said other of said tubular members and in one of said recesses of said catch to lock

Art Unit: 3637

the tubular members relative to each other, at least one of said pin and said catch being movable relative to each other to release the pin from a selected one of said recesses, a spring means (10) in said other tubular member for biasing the pin (13) towards the catch, the spring means being a coil spring abutting the pin, a plate (at the end of the tubular member 2 where the spring abuts) secured in said other of the tubular members and abutting the spring, the pin (13) being slidably mounted in said other of said tubular members to move away from said catch to allow said other tubular member to tilt relative to the one tubular member (3), said end of said catch being spaced concentrically from the second tubular member with the tubular members in the alignment with each other and is in abutment with the second tubular member (figure 4 indirectly through the pin (5)) in a terminal tilted position of said tubular members relative to each other, the tubular members having contoured interfitted end surfaces (the surfaces (the surfaces at end of 3, and 2 figure 1) to define smooth cylindrical contour therebetween with said tubular members in alignment with each other.

Wohlhuter does not show the pin being mounted transversely of the tubular member.

Lin discloses a pin (31) being transversely mounted to the tubular member to enable easy lock and unlocking of the tubular members and for easy tilting of the structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter to show the pin being mounted transversely of the tubular member because it would allow for easy lock and unlocking of the tubular members and for easy tilting of the structure as taught by Lin.

Per claim 8, Wohlhuter as modified shows all the claimed limitations except for the other of said tubular members having a pair of oppositely disposed elongated slots and the pin projects through the slots for grasping thereof.

Lin further discloses the other of said tubular members having a pair of oppositely disposed elongated slots and the pin projects through the slots for grasping thereof to enable easy lock and unlocking of the tubular members and for easy tilting of the structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter's modified structure to show the other of said tubular members having a pair of oppositely disposed elongated slots and the pin projects through the slots for grasping thereof because it would allow for easy lock and unlocking of the tubular members and for easy tilting of the structure as taught by Lin.

5. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlhuter (DT 2529240) in view of Lin (4877045).

Wohlhuter (figures 1-5) shows a tilt mechanism having a first tubular member (2) for securement to a first section of an umbrella pole, a second tubular member (3), a catch (6) fixedly mounted in one of said members and having a stem projecting into and pivotally secured to the other of said members to allow the members to pivot relative to each other, said stem having a plurality of recesses (7-9), a pin (13) mounted in said other of said tubular members and in one of said recesses of said catch to lock the tubular members relative to each other, at least one of said pin and said catch being movable relative to each other to release the pin from a selected one of said recesses, a spring means (10) in said other tubular member for biasing the pin (13) towards the catch, the spring means being a coil spring abutting the pin, a plate (at the

Art Unit: 3637

end of the tubular member 2 where the spring abuts) secured in said other of the tubular members and abutting the spring, the pin (13) being slidably mounted in said other of said tubular members to move away from said catch to allow said other tubular member to tilt relative to the one tubular member (3), said end of said catch being spaced concentrically from the second tubular member with the tubular members in the alignment with each other and is in abutment with the second tubular member (figure 4 indirectly through the pin (5)) in a terminal tilted position of said tubular members relative to each other, the tubular members having contoured interfitting end surfaces (the surfaces (the surfaces at end of 3, and 2 figure 1) to define smooth cylindrical contour therebetween with said tubular members in alignment with each other.

Wohlhuter does not show the pin being mounted transversely of the tubular member.

Lin discloses a pin (31) being transversely mounted to the tubular member to enable easy lock and unlocking of the tubular members and for easy tilting of the structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter to show the pin being mounted transversely of the tubular member because it would allow for easy lock and unlocking of the tubular members and for easy tilting of the structure as taught by Lin.

Per claim 14, Wohlhuter as modified shows all the claimed limitations except for the pin having a rounded head at each end projecting from the other tubular member for manual contact thereof.

Lin further discloses a pin (4) having a rounded head at each end projecting from the other tubular member for manual contact thereof to lock two tubular parts together.

Art Unit: 3637

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter's modified structure to show the pin having a rounded head at each end projecting from the other tubular member for manual contact thereof because rounded head pin would enable easy production of the pin which is cost saving and easy insertion of the pin into the opening in the other tubular member to provide lock of the two tubular parts together as taught by Lin.

6. Claims 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlhuter (DT 2529240) in view of Lin (4877045).

Wohlhuter (figures 1-5) shows a tilt mechanism having a first tubular member (2) for securement to a first section of an umbrella pole, a second tubular member (3), a catch (6) fixedly mounted in one of said members and having a stem projecting into and pivotally secured to the other of said members to allow the members to pivot relative to each other, said stem having a plurality of recesses (7-9), a rivet (5) securing said stem in the second member to allow the members to pivot relative to each other, a pin (13) mounted in said other of said tubular members and in one of said recesses of said catch to lock the tubular members relative to each other, at least one of said pin and said catch being movable relative to each other to release the pin from a selected one of said recesses, a spring means (10) in said other tubular member for biasing the pin (13) towards the catch, the spring means being a coil spring abutting the pin, a plate (at the end of the tubular member 2 where the spring abuts) secured in said other of the tubular members and abutting the spring, the plate being frictionally secured within and transversely of the second member, one of the recesses being disposed centrally of the stem and a pair of recesses being disposed to opposite sides of the centrally disposed recess (figure 4), the

Art Unit: 3637

first member having a bore at an upper end, the second member having a bore at a lower end, said stem of said catch being spaced concentrically from the second tubular member with the tubular members in the alignment with each other and is in abutment with the second tubular member (figure 4 indirectly through the pin (5)) in a terminal tilted position of said tubular members relative to each other, the tubular members having contoured interfitted end surfaces (the surfaces (the surfaces at end of 3, and 2 figure 1) to define smooth cylindrical contour therebetween with said tubular members in alignment with each other, the first member having a reduced diameter portion at an upper end (figure 2).

Wohlhuter does not show the pin being mounted transversely of the tubular member.

Lin discloses a pin (31) being transversely mounted to the tubular member to enable easy lock and unlocking of the tubular members and for easy tilting of the structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter to show the pin being mounted transversely of the tubular member because it would allow for easy lock and unlocking of the tubular members and for easy tilting of the structure as taught by Lin.

Per claim 21, Wohlhuter as modified by Lin shows all the claimed limitations except for the second member having a reduced diameter portion at a lower end to receive a lower metal section of a pole thereon.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter's modified structure to show the second member having a reduced diameter portion at a lower end because having a reduced diameter portion at a lower



Art Unit: 3637

end to received a metal cap is well known in the art as it provides the umbrella with a cap without the ugly effect of the cap protruding/bulging out of the body of the umbrella.

Per claim 24, Wohlhuter as modified shows all the claimed limitations except for the second tubular member having a pair of oppositely disposed elongated slots and the pin projecting through the slots for grasping thereof.

Lin shows a pair of slots for receiving the transversely disposed pin thereof to allow easy locking the stem in place.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wohlhuter's modified structure to show the second tubular member having a pair of oppositely disposed elongated slots and the pin projecting through the slots for grasping thereof because it would allow for the easy locking of the stem in place as taught by Lin.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different umbrella tilting device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A  
May 8, 2003